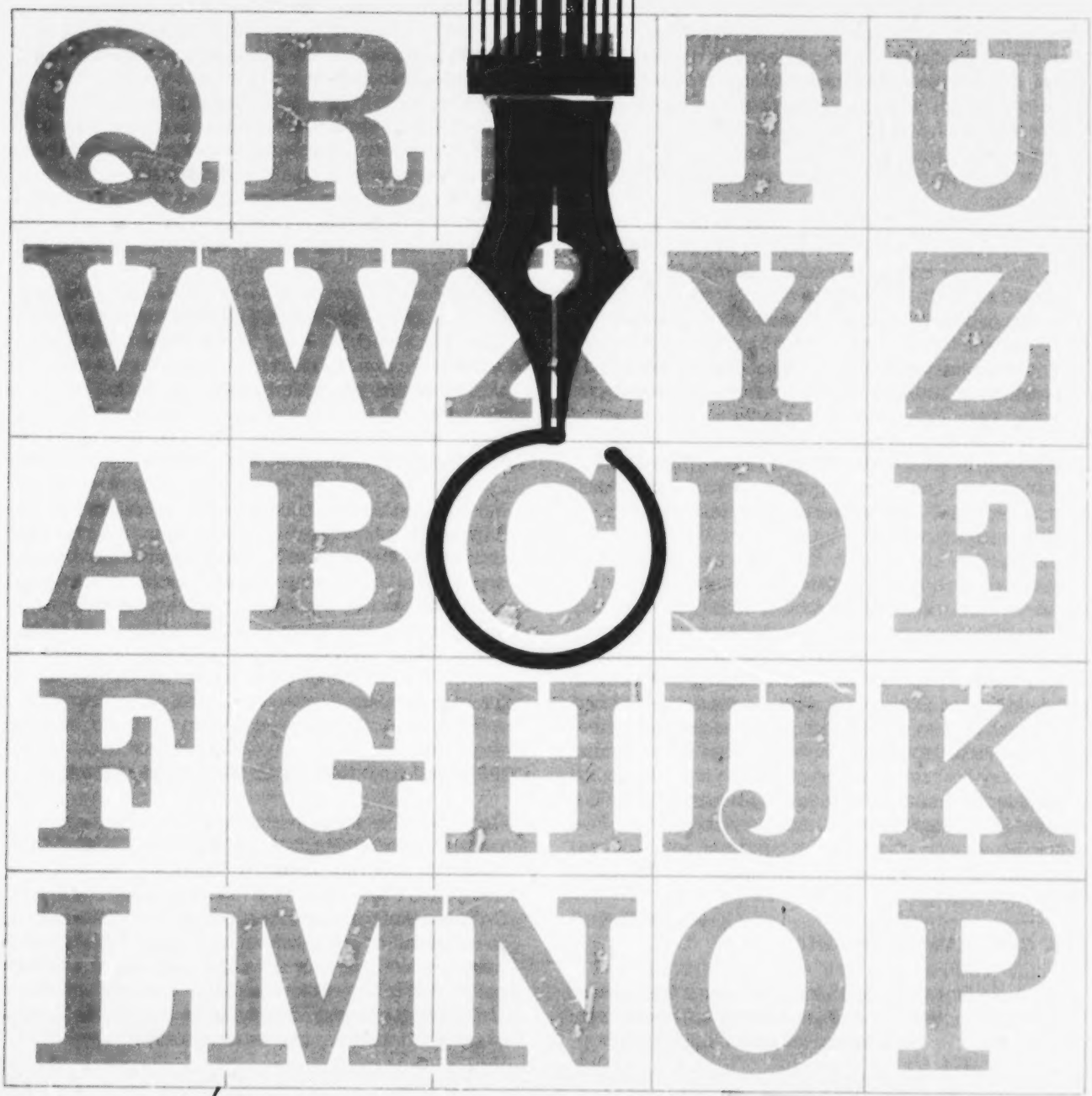
1/989

Circular 1

Copyright Basics



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Copyright Basics

WHAT COPYRIGHT IS

Copyright is a form of protection provided by the laws of the United States (title 17, U.S. Code) to the authors of "original works of authorship" including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works. Section 106 of the Copyright Act generally gives the owner of copyright the exclusive right to do and to authorize others to do the following:

- ***To reproduce*** the copyrighted work in copies or phonorecords;
- To prepare ***derivative works*** based upon the copyrighted work;
- ***To distribute copies or phonorecords*** of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- ***To perform the copyrighted work publicly***, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works; and
- ***To display the copyrighted work publicly,*** in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work.

It is illegal for anyone to violate any of the rights provided by the Act to the owner of copyright. These rights, however, are not unlimited in scope. Sections 107 through 118 of the Copyright Act establish limitations on these rights. In some cases, these limitations are specified exemptions from copyright liability. One major limitation is the doctrine of "fair use," which is given a statutory basis by section 107 of the Act. In other instances, the limitation takes the form of a "compulsory license" under which certain limited uses of copyrighted works are permitted upon payment of specified royalties and compliance with statutory conditions. For further information about the limitations of any of these rights, consult the Copyright Act or write to the Copyright Office.

WHO CAN CLAIM COPYRIGHT

Copyright protection subsists from the time the work is created in fixed form; that is, it is an incident of the process of authorship. The copyright in the work of authorship ***immediately*** becomes the property of the author who created it. Only the author or those deriving their rights through the author can rightfully claim copyright.

In the case of works made for hire, the employer and not the employee is presumptively considered the author. Section 101 of the copyright statute defines a "work made for hire" as:

> (1) a work prepared by an employee within the scope of his or her employment; or
>
> (2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audio visual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire....

The authors of a joint work are co-owners of the copyright in the work, unless there is an agreement to the contrary.

Copyright in each separate contribution to a periodical or other collective work is distinct from copyright in the collective work as a whole and vests initially with the author of the contribution.

Two General Principles

- Mere ownership of a book, manuscript, painting, or any other copy or phonorecord does not give the possessor the copyright. The law provides that transfer of ownership of any material object that embodies a protected work does not of itself convey any rights in the copyright.
- Minors may claim copyright, but state laws may regulate the business dealings involving copyrights owned by minors. For information on relevant state laws, consult an attorney.

COPYRIGHT AND NATIONAL ORIGIN OF THE WORK

Copyright protection is available for all unpublished works, regardless of the nationality or domicile of the author.

Published works are eligible for copyright protection in the United States if ***any*** one of the following conditions is met:

- On the date of first publication, one or more of the authors is a national or domiciliary of the United States or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party, or is a stateless person wherever that person may be domiciled; or

- The work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention; or the work comes within the scope of a Presidential proclamation; or
- The work is first published on or after March 1, 1989, in a foreign nation that on the date of first publication, is a party to the Berne Convention; or, if the work is ***not*** first published in a country party to the Berne Convention, it is published (on or after March 1,1989) within 30 days of first publication in a country that is party to the Berne Convention; or the work, first published on or after March 1, 1989, is a pictorial, graphic, or sculptural work that is incorporated in a permanent structure located in the United States; or, if the work, first published on or after March 1, 1989, is a published audiovisual work, all the authors are legal entities with headquarters in the United States.

WHAT WORKS ARE PROTECTED

Copyright protects "original works of authorship" that are fixed in a tangible form of expression. The fixation need not be directly perceptible, so long as it may be communicated with the aid of a machine or device. Copyrightable works include the following categories:

(1) literary works;
(2) musical works, including any accompanying words;
(3) dramatic works, including any accompanying music;
(4) pantomimes and choreographic works;
(5) pictorial, graphic, and sculptural works;
(6) motion pictures and other audiovisual works; and
(7) sound recordings.

These categories should be viewed quite broadly: for example, computer programs and most "compilations" are registrable as "literary works"; maps and architectural plans are registrable as "pictorial, graphic, and sculptural works."

WHAT IS NOT PROTECTED BY COPYRIGHT

Several categories of material are generally not eligible for statutory copyright protection. These include among others:

- Works that have ***not*** been fixed in a tangible form of expression. For example: choreographic works that have not been notated or recorded, or improvisational speeches or performances that have not been written or recorded.
- Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents.
- Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration.
- Works consisting ***entirely*** of information that is common property and containing no original authorship. For example: standard calendars, height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources.

HOW TO SECURE A COPYRIGHT

Copyright Secured Automatically Upon Creation

The way in which copyright protection is secured under the present law is frequently misunderstood. No publication or registration or other action in the Copyright Office is required to secure copyright (see following NOTE). There are, however, certain definite advantages to registration. (See page 7 .)

Copyright is secured ***automatically*** when the work is created, and a work is "created" when it is fixed in a copy or phonorecord for the first time. "Copies" are material objects from which a work can be read or visually perceived either directly or with the aid of a machine or device, such as books, manuscripts, sheet music, film, videotape, or microfilm. "Phonorecords" are material objects embodying fixations of sounds (excluding, by statutory definition, motion picture soundtracks), such as audio tapes and phonograph disks. Thus, for example, a song (the "work") can be fixed in sheet music ("copies") or in phonograph disks ("phonorecords"), or both.

If a work is prepared over a period of time, the part of the work that is fixed on a particular date constitutes the created work as of that date.

PUBLICATION

Publication is no longer the key to obtaining statutory copyright as it was under the Copyright Act of 1909. However, publication remains important to copyright owners.

The Copyright Act defines publication as follows:

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

NOTE: Before 1978, statutory copyright was generally secured by the act of publication with notice of copyright, assuming compliance with all other relevant statutory conditions. Works in the public domain on January 1, 1978 (for example, works published without satisfying all conditions for securing statutory copyright under the Copyright Act of 1909) remain in the public domain under the current Act.

Statutory copyright could also be secured before 1978 by the act of registration in the case of certain unpublished works and works eligible for ad interim copyright. The current Act automatically extends to full term (section 304 sets the term) copyright for all works in which ad interim copyright was subsisting or was capable of being secured on December 31, 1977.

A further discussion of the definition of "publication" can be found in the legislative history of the Act. The legislative reports define "to the public" as distribution to persons under no explicit or implicit restrictions with respect to disclosure of the contents. The reports state that the definition makes it clear that the sale of phonorecords constitutes publication of the underlying work, for example, the musical, dramatic, or literary work embodied in a phonorecord. The reports also state that it is clear that any form of dissemination in which the material object does not change hands, for example, performances or displays on television, is *not* a publication no matter how many people are exposed to the work. However, when copies or phonorecords are offered for sale or lease to a group of wholesalers, broadcasters, or motion picture theaters, publication does take place if the purpose is further distribution, public performance, or public display.

Publication is an important concept in the copyright law for several reasons:

- When a work is pubished, it may bear a notice of copyright to identify the year of publication and the name of the copyright owner and to inform the public that the work is protected by copyright. Works published before March 1, 1989, ***must*** bear the notice or risk loss of copyright protection. (See discussion "notice of copyright" below.)
- Works that are published in the United States are subject to mandatory deposit with the Library of Congress. (See discussion on page 9 on "mandatory deposit.")
- Publication of a work can affect the limitations on the exclusive rights of the copyright owner that are set forth in sections 107 through 118 of the law.
- The year of publication may determine the duration of copyright protection for anonymous and pseudonymous works (when the author's identity is not revealed in the records of the Copyright Office) and for works made for hire.
- Deposit requirements for registration of published works differ from those for registration of unpublished works. (See discussion on page 11 of "copyright registration" procedures.)

NOTICE OF COPYRIGHT

For works first published on and after March 1, 1989, use of the copyright notice is optional, though highly recommended. Before March 1, 1989, the use of the notice was mandatory on all published works, and any work first published before that date must bear a notice or risk loss of copyright protection.

Use of the notice is recommended because it informs the public that the work is protected by copyright, identifies the copyright owner, and shows the year of first publication. Furthermore, in the event that a work is infringed, if the work carries a proper notice, the court will not allow a defendant to claim "innocent infringement"—that is, that he or she did not realize that the work is protected. (A successful innocent infringement claim may result in a reduction in damages that the copyright owner would otherwise receive.)

The use of the copyright notice is the responsibility of the copyright owner and does not require advance permission from, or registration with, the Copyright Office.

Form of Notice for Visually Perceptible Copies

The notice for visually perceptible copies should contain all of the following three elements:

1. ***The symbol*** © (the letter C in a circle), or the word "Copyright," or the abbreviation "Copr."; and

2. ***The year of first publication*** of the work. In the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying textual matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful article; and
3. ***The name of the owner of copyright*** in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

Example: © 1989 John Doe

The "C in a circle" notice is used only on "visually perceptible copies." Certain kinds of works—for example, musical, dramatic, and literary works—may be fixed not in "copies" but by means of sound in an audio recording. Since audio recordings such as audio tapes and phonograph disks are "phonorecords" and not "copies," the "C in a circle" notice is not used to indicate protection of the underlying musical, dramatic, or literary work that is recorded.

Form of Notice for Phonorecords of Sound Recordings

The copyright notice for phonorecords of sound recordings* has somewhat different requirements. The notice appearing on phonorecords should contain the following three elements:

1. ***The symbol*** ℗ (the letter P in a circle); and
2. ***The year of first publication*** of the sound recording; and
3. ***The name of the owner of copyright*** in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner. If the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, the producer's name shall be considered a part of the notice.

Example: ℗ 1989 A.B.C., Inc.

*Sound recordings are defined as "works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

NOTE: Because of some questions that could result from the use of variant forms of the notice, any form of the notice other than these given here should not be used without first seeking legal advice.

Position of Notice

The notice should be affixed to copies or phonorecords of the work in such a manner and location as to "give reasonable notice of the claim of copyright." The notice on phonorecords may appear on the surface of the phonorecord or on the phonorecord label or container, provided the manner of placement and location give reasonable notice of the claim. The three elements of the notice should ordinarily appear together on the copies or phonorecords. The Copyright Office has issued regulations concerning the form and position of the copyright notice in the *Code of Federal Regulations* (37 CFR Part 201). For more information, request Circular 3.

Publications Incorporating United States Government Works

Works by the U.S. Government are not eligible for copyright protection. For works published on and after March 1, 1989, the previous notice requirement for works consisting primarily of one or more U.S. Government works has been eliminated. However, use of the copyright notice for these works is still strongly recommended. Use of a notice on such a work will defeat a claim of innocent infringement as previously described ***provided*** the notice also includes a statement that identifies one of the following: those portions of the work in which copyright is claimed or those portions that constitute U.S. Government material. An example is:

© 1989 Jane Brown. Copyright claimed in Chapters 7-10, exclusive of U.S. Government maps.

Works published before March 1, 1989, that consist primarily of one or more works of the U.S. Government ***must*** bear a notice and the identifying statement.

Unpublished Works

To avoid an inadvertent publication without notice, the author or other owner of copyright may wish to place a copyright notice on any copies or phonorecords that leave

his or her control. An appropriate notice for an unpublished work is: Unpublished work © 1989 Jane Doe.

Effect of Omission of the Notice or of Error in the Name or Date

The Copyright Act, in sections 405 and 406, provides procedures for correcting errors and omissions of the copyright notice on works published on or after January 1, 1978, and before March 1, 1989.

In general, if a notice was omitted or an error was made on copies distributed between January 1, 1978, and March 1, 1989, the copyright was not automatically lost. Copyright protection may be maintained if registration for the work has been made before or is made within 5 years after the publication without notice, and a reasonable effort is made to add the notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered. For more information request Circular 3.

HOW LONG COPYRIGHT PROTECTION ENDURES

Works Originally Copyrighted on or After January 1, 1978

A work that is created (fixed in tangible form for the first time) on or after January 1, 1978, is automatically protected from the moment of its creation, and is ordinarily given a term enduring for the author's life, plus an additional 50 years after the author's death. In the case of "a joint work prepared by two or more authors who did not work for hire," the term lasts for 50 years after the last surviving author's death. For works made for hire, and for anonymous and pseudonymous works (unless the author's identity is revealed in Copyright Office records), the duration of copyright will be 75 years from publication or 100 years from creation, whichever is shorter.

Works that were created but not published or registered for copyright before January 1, 1978, have been automatically brought under the statute and are now given Federal copyright protection. The duration of copyright in these works will generally be computed in the same way as for works created on or after January 1, 1978: the life-plus-50 or 75/100-year terms will apply to them as well. The law provides that in no case will the term of copyright for works in this category expire before December 31, 2002, and for works published on or before December 31, 2002, the term of copyright will not expire before December 31, 2027.

Works Copyrighted Before January 1, 1978

Under the law in effect before 1978, copyright was secured either on the date a work was published or on the date of registration if the work was registered in unpublished form. In either case, the copyright endured for a first term of 28 years from the date it was secured. During the last (28th) year of the first term, the copyright was eligible for renewal. The current copyright law has extended the renewal term from 28 to 47 years for copyrights that were subsisting on January 1, 1978, making these works eligible for a total term of protection of 75 years. However, the copyright *must* be renewed to receive the 47-year period of added protection. This is accomplished by filing a properly completed Form RE accompanied by a $6 filing fee in the Copyright Office before the end of the 28th calendar year of the original term.

For more detailed information on the copyright term, write to the Copyright Office and request Circulars 15a and 15t. For information on how to search the Copyright Office records concerning the copyright status of a work, ask for Circular 22.

TRANSFER OF COPYRIGHT

Any or all of the exclusive rights, or any subdivision of those rights, of the copyright owner may be transferred, but the transfer of *exclusive* rights is not valid unless that transfer is in writing and signed by the owner of the rights conveyed (or such owner's duly authorized agent). Transfer of a right on a nonexclusive basis does not require a written agreement.

A copyright may also be conveyed by operation of law and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.

Copyright is a personal property right, and it is subject to the various state laws and regulations that govern the ownership, inheritance, or transfer of personal property as well as terms of contracts or conduct of business. For information about relevant state laws, consult an attorney.

Transfers of copyright are normally made by contract. The Copyright Office does not have or supply any forms for such transfers. However, the law does provide for the recordation in the Copyright Office of transfers of copyright ownership. Although recordation is not required to make a valid transfer between the parties, it does provide certain legal advantages and may be required to validate the transfer as against third parties. For information on recordation of

transfers and other documents related to copyright, write to the Copyright Office for Circular 12.

Termination of Transfers

Under the previous law, the copyright in a work reverted to the author, if living, or if the author was not living, to other specified beneficiaries, provided a renewal claim was registered in the 28th year of the original term. The present law drops the renewal feature except for works already in the first term of statutory protection when the present law took effect. Instead, the present law permits termination of a grant of rights after 35 years under certain conditions by serving written notice on the transferee within specified time limits.

For works already under statutory copyright protection before 1978, the present law provides a similar right of termination covering the newly added years that extended the former maximum term of the copyright from 56 to 75 years. For further information, write to the Copyright Office for Circulars 15a and 15t.

INTERNATIONAL COPYRIGHT PROTECTION

There is no such thing as an "international copyright" that will automatically protect an author's writings throughout the entire world. Protection against unauthorized use in a particular country depends, basically, on the national laws of that country. However, most countries do offer protection to foreign works under certain conditions, and these conditions have been greatly simplified by international copyright treaties and conventions. For a list of countries which maintain copyright relations with the United States, write to the Copyright Office and ask for Circular 38a.

The United States belongs to both global, multilateral copyright treaties—the Universal Copyright Convention (UCC) and the Berne Convention for the Protection of Literary and Artistic Works. The United States was a founding member of the UCC, which came into force on September 16, 1955. Generally, a work by a national or domiciliary of a country that is a member of the UCC or a work first published in a UCC country may claim protection under the UCC. If the work bears the notice of copyright in the form and position specified by the UCC, this notice will satisfy and substitute for any other formalities a UCC member country would otherwise impose as a condition of copyright. A UCC notice should consist of the symbol © accompanied by the name of the copyright proprietor and the year of first publication of the work.

By joining the Berne Convention, an act that took effect on March 1, 1989, the United States gained protection for its authors in all member nations of the Berne Union, including an additional 25 countries (as of September 1988) with which the United States formerly either had no copyright relations or had bilateral treaty arrangements. Members of the Berne Union agree to a certain minimum level of copyright protection and agree to treat nationals of other member countries like their own nationals for purposes of copyright. A work first published in the United States or another Berne Union country (or first published in a non-Berne country, followed by publication within 30 days in a Berne Union country) is eligible for protection in all Berne member countries. There are no special requirements. For information on the legislation implementing the Berne Convention, request Circular 93 from the Copyright Office.

An author who wishes protection for his or her work in a particular country should first find out the extent of protection of foreign works in that country. If possible, this should be done before the work is published anywhere, since protection may often depend on the facts existing at the time of ***first*** publication.

If the country in which protection is sought is a party to one of the international copyright conventions, the work may generally be protected by complying with the conditions of the convention. Even if the work cannot be brought under an international convention, protection under the specific provisions of the country's national laws may still be possible. Some countries, however, offer little or no copyright protection for foreign works.

COPYRIGHT REGISTRATION

In general, copyright registration is a legal formality intended to make a public record of the basic facts of a particular copyright. However, except in two specific situations,* registration is not a condition of copyright protection. Even though registration is not generally a requirement for protection, the copyright law provides several inducements

*Works published with notice of copyright before January 1, 1978, must be registered and renewed during the first 28-year term of copyright to maintain protection.

Under sections 405 and 406 of the Copyright Act, copyright registration may be required to preserve a copyright on a work first published before March 1, 1989, that would otherwise be invalidated because the copyright notice was omitted from the published copies or phonorecords, or the name or year date was omitted, or certain errors were made in the year date.

or advantages to encourage copyright owners to make registration. Among these advantages are the following:

- Registration establishes a public record of the copyright claim;
- Before an infringement suit may be filed in court, registration is necessary for works of U.S. origin and for foreign works not originating in a Berne Union country. (For more information on when a work is of U.S. origin, request Circular 93.);
- If made before or within 5 years of publication, registration will establish prima facie evidence in court of the validity of the copyright and of the facts stated in the certificate; and
- If registration is made within 3 months after publication of the work or prior to an infringement of the work, statutory damages and attorney's fees will be available to the copyright owner in court actions. Otherwise, only an award of actual damages and profits is available to the copyright owner.

Registration may be made at any time within the life of the copyright. Unlike the law before 1978, when a work has been registered in unpublished form, it is not necessary to make another registration when the work becomes published (although the copyright owner may register the published edition, if desired).

REGISTRATION PROCEDURES

In General

A. To register a work, send the following three elements ***in the same envelope or package*** to the Register of Copyrights, Copyright Office, Library of Congress, Washington, D.C. 20559: (see page 11 for what happens if the elements are sent separately).

1. A properly completed application form;
2. A nonrefundable filing fee of $10 for each application;
3. A nonreturnable deposit of the work being registered. The deposit requirements vary in particular situations. The *general* requirements follow. Also note the information under "Special Deposit Requirements" immediately following this section.

- If the work is unpublished, one complete copy or phonorecord.
- If the work was first published in the United States on or after January 1, 1978, two complete copies or phonorecords of the best edition.
- If the work was first published in the United States before January 1, 1978, two complete copies or phonorecords of the work as first published.
- If the work was first published outside the United States, whenever published, one complete copy or phonorecord of the work as first published.

B. To register a renewal, send:

1. A properly completed RE application form; and
2. A nonrefundable filing fee of $6 for each work.

NOTE: COMPLETE THE APPLICATION FORM USING BLACK INK PEN OR TYPEWRITER. You may photocopy the application forms if the forms you submit to the Office are clear, legible, on a good grade of white paper, and printed head-to-head (so that when you turn the sheet over, the top of page 2 is directly behind the top of page 1). Because the certificates of registration are reproduced directly from the application forms, it is vital the forms meet the stated requirements. Forms not meeting these requirements will be returned.

Special Deposit Requirements

Special deposit requirements exist for many types of work. In some instances, only one copy is required for published works, in other instances only identifying material is required, and in still other instances, the deposit requirement may be unique. The following are three prominent examples of exceptions to the general deposit requirements:

- If the work is a motion picture, the deposit requirement is one complete copy of the unpublished or published motion picture ***and*** a separate written description of its contents, such as a continuity, press book, or synopsis.
- If the work is a literary, dramatic or musical work ***published only on phonorecord,*** the deposit requirement is one complete copy of the phonorecord.
- If the work is an unpublished or published computer program, the deposit requirement is one visually perceptible copy in source code of the ***first and last 25 pages*** of the program. For a program of less than 50 pages, the deposit

is a copy of the entire program. (For more information on computer program registration, including deposits for revised programs and special relief for trade secrets, request Circular 61.)

In the case of works reproduced in three-dimensional copies, identifying material such as photographs or drawings is ordinarily required. Other examples of special deposit requirements (but by no means an exhaustive list) include many works of the visual arts, such as greeting cards, toys, fabric, oversized material (request Circular 40a); video games and other machine-readable audiovisual works (request Circular 49); automated databases (request Circular 65); and contributions to collective works.

If you are unsure of the deposit requirement for your work, write or call the Copyright Office and describe the work you wish to register.

Unpublished Collections

A work may be registered in unpublished form as a "collection," with one application and one fee, under the following conditions:

- The elements of the collection are assembled in an orderly form
- The combined elements bear a single title identifying the collection as a whole;
- The copyright claimant in all three elements and in the collection as a whole is the same; and
- All of the elements are by the same author, or, if they are by different authors, at least one of the authors has contributed copyrightable authorship to each element.

Unpublished collections as indexed in the *Catalog of Copyright Entries* only under the collection titles.

CORRECTIONS AND AMPLIFICATIONS OF EXISTING REGISTRATIONS

To correct an error in a copyright registration or to amplify the information given in a registration, file a supplementary registration form—Form CA—with the Copyright Office. The information in a supplementary registration augments but does not supersede that contained in the earlier registration. Note also that a supplementary registration is not a substitute for an original registration, for a renewal registration, or for recording a transfer of ownership. For further information about supplementary registration, request Circular 8.

MANDATORY DEPOSIT FOR WORKS PUBLISHED IN THE UNITED STATES

Although a copyright registration is not required, the Copyright Act establishes a mandatory deposit requirement for works published in the United States (see definition of "publication" on page 4). In general, the owner of copyright, or the owner of the exclusive right of publication in the work, has a legal obligation to deposit in the Copyright Office, within 3 months of publication in the United States, 2 copies (or, in the case of sound recordings, 2 phonorecords) for the use of the Library of Congress. Failure to make the deposit can result in fines and other penalties, but does not affect copyright protection.

Certain categories of works are *exempt entirely* from the mandatory deposit requirements, and the obligation is reduced for certain other categories. For further information about mandatory deposit, request Circular 7d.

NOTE: LIBRARY OF CONGRESS CATALOG CARD NUMBERS.
A Library of Congress Catalog Card Number is different from a copyright registration number. The Cataloging in Publication (CIP) Division of the Library of Congress is responsible for assigning LC Catalog Card Numbers and is operationally separate from the Copyright Office. A book may be registered in or deposited with the Copyright Office but not necessarily cataloged and added to the Library's collections. For information about obtaining an LC Catalog Card Number, contact the CIP Division, Library of Congress, Washington, D.C. 20540. For information on International Standard Book Numbering (ISBN), write to: ISBN Agency, R.R. Bowker Company, 205 East 42nd Street, New York, N.Y. 10017. For information on International Standard Serial Numbering (ISSN), write to: Library of Congress, National Serials Data Program, Washington, D.C. 20540.

USE OF MANDATORY DEPOSIT TO SATISFY REGISTRATION REQUIREMENTS

For works published in the United States the Copyright Act contains a provision under which a single deposit can be made to satisfy both the deposit requirements for the Library and the registration requirements. In order to have this dual effect, the copies or phonorecords must be accompanied by the prescribed application and fee for registration.

WHO MAY FILE AN APPLICATION FORM

The following persons are legally entitled to submit an application form:

- The author. This is either the person who actually created the work, or, if the work was made for hire, the employer or other person for whom the work was prepared.
- The copyright claimant. The copyright claimant is defined in Copyright Office regulations as either the author of the work or a person or organization that has obtained ownership of all the rights under the copyright initially belonging to the author. This category includes a person or organization who has obtained by contract the right to claim legal title to the copyright in an application for copyright registration.
- The owner of exclusive right(s). Under the law, any of the exclusive rights that go to make up a copyright and any subdivision of them can be transferred and owned separately, even though the transfer may be limited in time or place of effect. The term "copyright owner" with respect to any one of the exclusive rights contained in a copyright refers to the owner of that particular right. Any owner of an exclusive right may apply for registration of a claim in the work.
- The duly authorized agent of such author, other copyright claimant, or owner or exclusive right(s). Any person authorized to act on behalf of the author, other copyright claimant, or owner of exclusive rights may apply for registration.

There is no requirement that applications be prepared or filed by an attorney.

APPLICATION FORMS

For Original Registration

Form TX: for published and unpublished nondramatic literary works

Form SE: for serials, works issued or intended to be issued in successive parts bearing numerical or chronological designations and intended to be continued indefinitely (periodicals, newspapers, magazines, newsletters, annuals, journals, etc.)

Form PA: for published and unpublished works of the performing arts (musical and dramatic works, pantomimes and choreographic works, motion pictures and other audiovisual works)

Form VA: for published and unpublished works of the visual arts (pictorial, graphic, and sculptural works)

Form SR: for published and unpublished sound recordings

For Renewal Registration

Form RE: for claims to renewal copyright in works copyrighted under the law in effect through December 31, 1977 (1909 Copyright Act)

For Corrections and Amplifications

Form CA: for supplementary registration to correct or amplify information given in the Copyright Office record of an earlier registration

For a Group of Contributions to Periodicals

Form GR/CP: an adjunct application to be used for registration of a group of contributions to periodicals in addition to an application Form TX, PA, or VA

Application forms are supplied by the Copyright Office free.

COPYRIGHT OFFICE HOTLINE

NOTE: Requestors may order application forms and circulars at any time by telephoning (202) 707-9100. Orders will be recorded automatically and filled as quickly as possible.

MAILING INSTRUCTIONS

All applications and materials related to copyright registration should be addressed to the Register of Copyrights, Copyright Office, Library of Congress, Washington, D.C. 20559.

The application, nonreturnable deposit (copies, phonorecords, or identifying material), and nonrefundable filing fee should be mailed in the same package.

WHAT HAPPENS IF THE THREE ELEMENTS ARE NOT RECEIVED TOGETHER

Applications and fees received without appropriate copies, phonorecords, or identifying material will **not** be processed and will ordinarily be returned. Unpublished deposits without applications or fees will ordinarily be returned, also. In most cases, published deposits received without applications and fees can be immediately transferred to the collections of the Library of Congress. This practice is in accordance with section 408 of the law, which provides that the published deposit required for the collections of the Library of Congress may be used for registration only if the deposit is "accompanied by the prescribed application and fee...."

After the deposit is received and transferred to another department of the Library for its collections or other disposition, it is no longer available to the Copyright Office. If you wish to register the work, you must deposit additional copies or phonorecords with your application and fee.

FEES

Do not send cash. A fee sent to the Copyright Office should be in the form of a money order, check, or bank draft payable to the Register of Copyrights; it should be securely attached to the application. A remittance from outside the United States should be payable in U.S. dollars and should be in the form of an international money order or a draft drawn on a U.S. bank. Do not send a check drawn on a foreign bank.

EFFECTIVE DATE OF REGISTRATION

A copyright registration is effective on the date the Copyright Office receives all of the required elements in acceptable form, regardless of how long it then takes to process the application and mail the certificate of registration. The time the Copyright Office requires to process an application varies, depending on the amount of material the Office is receiving and the personnel available. It must also be kept in mind that it may take a number of days for mailed material to reach the Copyright Office and for the certificate of registration to reach the recipient after being mailed by the Copyright Office.

If you are filing an application for copyright registration in the Copyright Office, you *will not* receive an acknowledgement that your application has been received, but you can expect within 120 days:

- A letter or telephone call from a copyright examiner if further information is needed;
- A certificate of registration to indicate the work has been registered, or if the application cannot be accepted, a letter explaining why it has been rejected.

If you want to know when the Copyright Office receives your material, you should send it by registered or certified mail and request a return receipt from the post office. Allow at least 3 weeks for the return of your receipt.

SEARCH OF COPYRIGHT OFFICE RECORDS

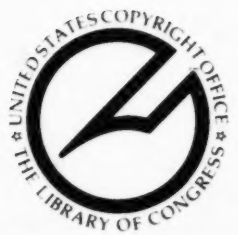
The records of the Copyright Office are open for inspection and searching by the public. Moreover, on request, the Copyright Office will search its records at the statutory rate of $10 for each hour or fraction of an hour. For information on searching the Office records concerning the copyright status or ownership of a work, write for Circulars 22 and 23.

AVAILABLE INFORMATION

This circular attempts to answer some of the questions that are frequently asked about copyright. For a list of other material published by the Copyright Office, write for Circular

2, "Publications on Copyright." Any requests for Copyright Office publications or special questions relating to copyright problems not mentioned in this circular should be addressed to the Copyright Office, LM 455, Library of Congress, Washington, D.C. 20559. To speak to a Copyright Information Specialist, call (202) 479-0700.

The Copyright Office is not permitted to give legal advice. If you need information or guidance on matters such as disputes over the ownership of a copyright, suits against possible infringers, the procedure for getting a work published, or the method of obtaining royalty payments, it may be necessary to consult an attorney.



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